

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY SANDERS,

Defendant-Appellant.

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UNPUBLISHED

March 13, 2007

No. 267264

Jackson Circuit Court

LC No. 05-000643-FH

Before: Servitto, P.J., and Talbot and Schuette, JJ.

MEMORANDUM.

Defendant was convicted by a jury of misdemeanor possession of marijuana, MCL 333.7403(2)(d), and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to two years' imprisonment for felony-firearm to be served concurrently with 365 days in county jail for misdemeanor possession of marijuana. Defendant appeals as of right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues he may not be convicted of felony-firearm because the jury found him guilty of a misdemeanor. We disagree.

In *People v Lewis*, 415 Mich 443, 448; 330 NW2d 16 (1982), our Supreme Court specifically answered the following question: “(1) Where a defendant charged with an underlying felony and felony firearm is not convicted of the underlying felony or any lesser offense but is convicted of felony firearm, may the conviction stand?” Our Supreme Court held “that the asserted inconsistencies in verdicts do not invalidate the convictions of felony firearm.” *Id.*

The rationale behind allowing inconsistent jury verdicts is that demanding rationally consistent verdicts would interfere with the jury's power to exercise leniency or to compromise. *Id.* at 453-454. This rationale also applies to the present case where defendant was convicted of a lesser-included misdemeanor. The jury could have been attempting to exercise leniency or to compromise by finding defendant guilty of the misdemeanor rather than the felony. As the *Lewis* Court noted, “[a] compromise is indivisible” and this Court cannot properly enforce only one part of a compromise. *Id.* at 453. Further, the elements of the crime of felony-firearm are (1) the defendant possessed a firearm (2) while committing or attempting to commit a felony. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). Applying the rationale and the

holding in *Lewis* to the instant case and noting that conviction of a felony is not an element of the offense of felony-firearm, we affirm defendant's felony-firearm conviction.

Affirmed.

/s/ Deborah A. Servitto

/s/ Michael J. Talbot

/s/ Bill Schuette